

**HIGH COURT OF TRIPURA
AGARTALA**

**IA 01 of 2025
In RSA No.12 of 2025**

Shri Rajani Kanta Debnath, S/o-Lt. Rajeswar Debnath, R/o-Town Indranagar, P.O.-Dhaleswar, P.S.-East Agartala, Dist.-West Tripura

....Applicant/Appellant(s)

Versus

Shri Haripada Acharjee, S/o- Lt. Upendra Ch. Acharjee, R/o-Town Indranagar, P.O.-Dhaleswar, P.S.-East Agartala, Dist.-West Tripura.

....Respondent(s)

For Applicant/Appellant(s) :	Mr. Ashish Nandi,Advocate.				
For Respondent(s) :	Mr. P. Chakraborty,Advocate. Ms. S. Debnath,Advocate.				
Date of Hearing & Delivery of Order :	9th September,2025.				
Whether fit for reporting :	<table><tr><td>Yes</td><td>No</td></tr><tr><td>✓</td><td></td></tr></table>	Yes	No	✓	
Yes	No				
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HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
-O-R-D-E-R-

Heard Ld. Counsel of both sides.

[2] The second appeal has been preferred against the judgment dated 24.04.2024 passed by Ld. District Judge, West Tripura, Agartala in Title Appeal No. 55 of 2017 and related decree thereof whereby the appeal was allowed by setting aside the judgment passed by Ld. Trial Court. The right, title and interest over the suit land was declared by the

first appellate court with the relief of recovery of possession of the same. The appeal is filed with a delay of 275 days by the appellant defendant.

[3] Ld. Counsel, Mr. Ashish Nandi representing the appellant, submits in respect of the petition filed u/s 5 of the Limitation Act that after the passing of the appellate judgment and decree on 24.04.2024 and 26.04.2024 respectively, the neighbours and well wishers of both the parties intervened in the matter and a meeting was held on 26.06.2024 amongst them wherein it was resolved that respondent would not file any execution petition for recovery of possession from the defendant appellant. Though, the written resolution was agreed to be reduced into writing, but same was not done because the plaintiff respondent had to leave the venue of the meeting for his urgent work. Thereafter, from time to time the petitioner attempted to get the said resolution signed, but the respondent was found reluctant in signing the same. Thereafter the petitioner left for Bangladesh to attend a marriage ceremony on 25th December, 2024 and returned after 3 months therefrom and this way the time rolled on.

[4] It is further stated that the petitioner appellant visited Bangladesh without any passport. Thereafter, on 28.03.2024 the petitioner-appellant contacted with the

respondent for finalization of the settlement of their land dispute and at that time the respondent intimated that he had already filed one execution petition for execution of the appellate decree and thereafter, again on 05.04.2024 all the well wishers and neighbours of the respondent for honoring the earlier terms of settlement to which the respondent strongly opposed. Thereafter, the appellant filed the present appeal with a delay of 275 days.

[5] Ld. Counsel, Mr. Ashish Nandi earnestly prays for condoning the delay submitting that there were no laches or negligence on the part of the appellant in preferring the appeal and taking some lenient view, the delay may be condoned.

[6] Ld. Counsel, Mr. Nandi also submits that the claim of the plaintiff was based on a registered 'Will' and in the trial court, the attesting witnesses of the 'Will' were not examined. Though in the first appellant court both the attesting witnesses were allowed to be examined by said Ld. Court, still the content of the said 'Will' were not proved and therefore, there is merit in the appeal.

[7] Ld. Counsel, Mr. Nandi relies on a decision of the Hon'ble Supreme Court in case of **Collector, Land Acquisition, Anantanag and another v. Mst. Katiji and**

others [AIR 1987 SUPREME COURT 1353] wherein it was observed that the legislature had conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing the matter on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the Courts to apply the law in a meaningful manner which subserves the end of justice that being life purpose for the existence of the institution of Courts.

[8] Ld. Counsel, Mr. Nandi also relies on another decision of Hon'ble Supreme Court in **Pathupati Subba Reddy(Died)by L.Rs & Ors v. The Special Deputy Collector (LA)[2024 4 SCR 241]** wherein it is observed that the courts are conferred with discretionary powers to admit an appeal even after the expiry of the prescribed period or limitation, provided that the appellant is able to establish 'sufficient cause' for not filing it within time. Said power to condone the delay or to admit the appeal preferred after expiry of time is discretionary in nature and may not be exercised even if sufficient cause is shown based upon host of other factors such as negligence, failure to exercise due diligence etc. In paragraph 16 of the said judgment, it was also observed that generally courts adopt a very liberal

approach in construing the phrase 'sufficient cause' used in Section 5 of the Limitation Act in order to condone the delay to enable the courts to do substantial justice.

[9] Ld. Counsel, Mr. Pradip Chakraborty on the other hand strongly opposes the prayer stating that there was no talk of any compromise between the parties and no village level meeting was also organized on any occasion. Therefore, the pleas as taken by the petitioner appellant are totally false.

[10] Ld. Counsel, Mr. Chakraborty also relies on a decision of the Division Bench of this Court in case of **Dipak Chandra Kar Vs. Union of India [decided on 04.08.2025 in IA No.01 of 2025]**, wherein prayer for condoning delay of 362 days was rejected with the observation that the delay should not be condoned merely as an act of generosity.

[11] Mr. Chakraborty, Ld. Counsel also relies on another decision of Hon'ble Supreme Court in case of **Mool Chandra Vs. Union of India and Anr. [(2025)1 TLR (SC) 295]** wherein the Hon'ble Apex Court observed that if the cause for delay would fall within the four corners of "sufficient cause", irrespective of the length of delay, same deserved to be condoned, and if the cause as shown was

insufficient, irrespective of the period of delay, same would not be condoned.

[12] Court has considered submissions of both sides and also perused the materials placed in the record.

[13] At one place the petitioner asserted that though the resolution of the participants of the meeting dated 26.06.2024 was agreed to be reduced into writing, but that was not done as the respondent had to leave the venue of the said meeting for his urgent work. But in another place he has asserted that from time to time, he attempted to get the resolution signed by the respondent but he was found reluctant. Both the assertions are self contradictory. If no resolution was recorded in writing at all, question of presenting the same for signing doesnot arise and if it was presented for signing by the respondent, certainly the resolution of the meeting was written down, but no copy of any such resolution is placed in the record. Such contradictory versions lead to the inference that both are doubtful. It is also the case of the appellant that he went to Bangladesh to attend a marriage ceremony on 25th December, 2024 (though illegally without any Passport) and returned to India only on 25th March 2025 i.e. after 3 months therefrom. Such long stay at Bangladesh without taking any steps for presenting the appeal, clearly demonstrates his

lackadaisical and negligent attitude in pursuing his own cause.

[14] In a recent decision by the Hon'ble Supreme Court in case of ***Union of India & another v. Jahangir Byramji Jeejeebhoy (D) through his L.R.s, 2024 SCC Online SC 489***, it has been held that when it is decided that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the petition for condonation of delay, the court must not start with the merits of the main case. The relevant paragraph nos.26 and 27 of said decision are extracted below:

“26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the *bona fides* of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the ‘Sword of Damocles’ hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.”

[15] Again in ***State of Madhya Pradesh v. Ramkumar Choudhury***,**[Special Leave Petition(C) Diary No.48636 of 2024 decided on 29.11.2024]**, above said principle has been reiterated by the Apex Court. It is also further observed that the discretion to condone the delay has to be exercised judiciously based on facts and circumstance of each case and that, the expression 'sufficient cause' cannot be liberally interpreted, if negligence, inaction or lack of bonafides is attributed to the party.

[16] The reasons for delay as projected by the appellant in the instant case, as discussed earlier in paragraph no. 13, appears to be not at all satisfactory, rather the negligence and lack of diligence of the appellant are evident in his conduct. Therefore, the Court is not inclined to condone the delay as prayed for.

[17] Accordingly, the petition for condonation of delay is rejected.

JUDGE

Saikat Sarma

RUDRADEE
P BANERJEE

Digitally signed by
Rudradee Banerjee
DN: cn=Rudradee Banerjee,
o=Saikat Sarma, ou=Saikat Sarma,
c=IN